



Federal Communications Commission  
Washington, D.C. 20554

February 26, 2018

NRJ TV Philly License Co., LLC  
722 S. Denton Tap Road  
Suite 130  
Coppell, TX 75019

Re: Request for Waiver of Deadline To  
Implement Shared Channel Operations  
WTVE, Reading, PA  
Facility ID No. 55305  
LMS File No. 0000042842

Dear Licensee,

On February 21, 2018, NRJ TV Philly License Co., LLC (NRJ) submitted the above-captioned request for waiver for WTVE, Reading, Pennsylvania (Station) of its April 23, 2018, deadline to implement shared channel operations and discontinue operations on its pre-auction channel (channel sharing implementation deadline).<sup>1</sup> For the reasons set forth below, we grant the request for waiver, extend the channel sharing implementation deadline to July 23, 2018.

*Background.* The Commission instructed that channel sharee stations<sup>2</sup> must implement shared channel operations and discontinue operations on their pre-auction channels by January 23, 2018.<sup>3</sup> A channel sharee station may request a waiver of the channel sharing implementation deadline.<sup>4</sup> All such requests for waiver will be evaluated to determine whether grant will delay or disrupt the post-auction transition schedule.<sup>5</sup>

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<sup>1</sup> See *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786, 2813, para. 76 (MB & WTB 2017) (*Closing and Channel Reassignment Public Notice*); see also *Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition*, Public Notice, 32 FCC Rcd 858, 879, para. 63 (MB 2017) (*Broadcast Transition Procedures Public Notice*); 47 CFR §§ 73.3700(b)(4)(ii).

<sup>2</sup> Absent any contrary information from the station, any station that indicated it had a pre-auction channel sharing agreement (CSA) and/or an intent to channel share on its reverse auction FCC Form 177 is considered a channel sharee station until the station fails to meet or obtain a waiver of the channel sharing application filing deadline.

<sup>3</sup> See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2813, para. 76; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 879-80, paras. 63-64.

<sup>4</sup> See *Closing and Channel Reassignment Public Notice*, 32 FCC Rcd at 2814, para. 81; *Broadcast Transition Procedures Public Notice*, 32 FCC Rcd at 881, para. 69. Channel sharee stations may request an additional 90 day waiver of the deadline (for a total of 180 additional days) using the same procedure. *Id.*

<sup>5</sup> *Id.*

A waiver is appropriate where the particular facts would make strict compliance inconsistent with the public interest and deviation from the general rule would relieve hardship, promote equity, or produce a more effective implementation of overall policy on an individual basis.<sup>6</sup>

NRJ was previously granted a waiver extending its channel sharing implementation deadline to April 23, 2018.<sup>7</sup> In support of its second request for waiver of the deadline, NRJ notes that it will be sharing with WPHY-CD, Trenton, New Jersey. NRJ states that, at the time, it expected WMCN-TV (which is not affiliated with NRJ) to also be sharing with WPHY-CD. Accordingly, NRJ had planned to utilize telecommunications links that would have passed through WMCN-TV's main studio location. NRJ reports that the licensee of WMCN-TV has subsequently advised NRJ that it does not intend to channel share with WPHY-CD, requiring NRJ to reconfigure the signal paths for Station and WPHY-CD, including the ordering and installation of replacement telecommunications circuits which have at least a three-month lead time, necessitating additional time to implement channel sharing.

NRJ argues that grant of its waiver is in the public interest. First, waiver will facilitate Station's ability to channel share successfully and without disruption, which NRJ argues will promote the Commission's longstanding policy goals for broadcast television, including localism, viewpoint diversity, and competition. NRJ maintains it will utilize the additional time to reconfigure its signal paths and order and install the circuits required to deliver Station's signal without unnecessary viewer disruption.

NRJ also argues that permitting the Station to utilize a full 6 MHz channel for an additional three months will allow it to provide the best over-the-air experience to its viewers by providing a better-quality signal (with increased bandwidth and lower compression) and additional programming on multicast streams.

Moreover, NRJ contends that grant of its waiver will not adversely affect the Commission's post-auction transition timeline because the CSA will utilize existing facilities, and grant of this waiver will not divert any engineering resources otherwise needed for the post-auction transition. Furthermore, NRJ argues, as the testing period for Phase 1 of the repack does not begin until September 14, 2018, providing the Station with 90 additional days to cease operations on its pre-auction channel and transition to shared operations will not affect other stations' transition schedules. Finally, NRJ concludes, waiver will not delay the launch of service by winning 600 MHz bidders given that the Station's RF channel (25) is within the post-auction broadcast television band.

*Discussion.* Upon review of the facts and circumstances presented, we find NRJ's request to extend the channel sharing implementation deadline until July 23, 2018, satisfies the requirements for a waiver. We find that it would not be consistent with the public interest to require Station to implement its shared channel operations by its current deadline as it is currently completing implementation of its shared channel operations. Given that the testing period start date for transition phase 1 is not set to begin until September 14, 2018, and Station operates on a channel that is not part of the 600 MHz band, we find that waiver of the channel sharing implementation deadline will not adversely impact the post-incentive auction transition.<sup>8</sup>

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<sup>6</sup> See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

<sup>7</sup> See LMS File No. 0000034065.

<sup>8</sup> On October 6, 2017, WWOR-TV, Secaucus, New Jersey (WWOR-TV), was granted a waiver of its phase assignment and permitted to transition to its post-auction channel on or before February 15, 2018. According to the

Any further requests for waiver of the channel sharing implementation deadline will not be viewed favorably.<sup>9</sup>

The above facts considered, NRJ TV Philly License Co., LLC's request for waiver **IS GRANTED** and the deadline to implement its shared channel operations and to discontinue operations on its pre-auction channel for WTVE, Reading, Pennsylvania **IS EXTENDED** for 90 days to July 23, 2018.<sup>10</sup>

Sincerely,



Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

cc: Ari M. Meltzer, Esq.

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grant letter, if WTVE is still operating at the time WWOR-TV completes construction, WWOR-TV may not commence operation on its post-auction channel until it has first filed a request for special temporary authority to operate at reduced power sufficient to prevent pairwise interference in excess of two percent to WTVE. *See* Letter from Barbara A. Kreisman, Chief Video Division to Fox Television Stations, LLC at 2-3 and 4 (Oct. 6, 2017) available LMS File No. 0000030007. The date on which WWOR-TV was to initiate service on its post-auction channel was subsequently changed to March 5, 2018. *See* LMS File No. 0000041069 (granted Feb. 7, 2018).

<sup>9</sup> Further requests to waive the channel sharing implementation deadline must be filed no later than May 23, 2018. *Id.* at 880, para. 70 (requests for waiver of the channel sharing implementation deadline must be filed no later than 60 days prior to the deadline).

<sup>10</sup> Because the extended channel sharing implementation deadline falls on Sunday, July 22, 2018, we set Monday, July 23, 2018, as the new deadline. *See* 47 C.F.R. § 1.4.